

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ORDER

Application 28994 Permit 20655 License _____

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 20666 was issued to Leon Whitney on February 23, 1993 pursuant to Application 28994.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 7 of the permit be deleted
2. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 2005

(0000008)

3. Condition 9 of the permit be amended to read:


COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 2007

(0000009)

Dated:

MARCH 14 1997

for 
Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20655

Application 28994 of Leon Whitney

Star Route, Box 61, Orland, CA 95963

filed on March 25, 1987, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream	Grindstone Creek thence
	Stoney Creek thence
	Sacramento River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
SOUTH 2,825 FEET AND WEST 1,500 FEET FROM THE NE CORNER OF SECTION 7	SW $\frac{1}{4}$ OF NE $\frac{1}{4}$	7	21N	6W	MD

County of Glenn

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acre
FIRE PROTECTION						
RECREATION						
STOCKWATERING	WHITNEY RESERVOIR WITHIN SW $\frac{1}{4}$ OF NE $\frac{1}{4}$ AND E $\frac{1}{2}$ OF NW $\frac{1}{4}$	7	21N	6W	MD	
IRRIGATION	S $\frac{1}{2}$ OF NW $\frac{1}{4}$	5	21N	6W	MD	17
	SW $\frac{1}{4}$	5	21N	6W	MD	128
	E $\frac{1}{2}$ OF NE $\frac{1}{4}$	6	21N	6W	MD	37
	E $\frac{1}{2}$ OF SE $\frac{1}{4}$	6	21N	6W	MD	20
	E $\frac{1}{2}$	7	21N	6W	MD	36
	W $\frac{1}{2}$	8	21N	6W	MD	60

TOTAL 298

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 370 acre-feet per annum to be collected from November 1 of each year to March 15 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1996. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1997. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. (0050043)

15. Permittee shall install and properly maintain in each reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoirs.

Permittee shall record the staff gage readings on or about October 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

The State Water Resources Control Board may require the release of water which cannot be verified as having been collected to storage prior to October 1 of each year.

Permittee shall allow a designated representative of the Orland Unit Water User's Association reasonable access to the reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoir. (0070047)
(0100047)

16. If the storage dam will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam. (0360048)

17. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)

18. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flows required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)

19. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fish life have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

20. This permit is subject to prior downstream rights, including those defined in the Angle Decree, Equity No. 30. Permittee shall allow access to project facilities to the Watermaster appointed by the United States District Court for the Eastern District of California to determine compliance with the terms of this permit. In diverting and storing water, permittee shall comply with orders of the Watermaster, including orders to release water stored adverse to prior downstream rights, unless otherwise directed by the State Water Resources Control Board or its representatives. Permittee shall pay any assessments for its proportionate share of the cost of watermaster service which have been approved by the United States District Court. (0000092)

21. During any water year in which Black Butte Reservoir does not collect its authorized diversion because of inadequate inflow, and if, in the absence of permittee's diversion, hydraulic continuity would exist between permittee's diversion point and Black Butte Reservoir, permittee shall release water collected to storage during the current diversion season to flow downstream to satisfy such prior right. Nothing in this term shall require release of water legally collected to storage during previous diversion seasons. (016E001)

22. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley Region, or by the State Water Resources Control Board. (0000100)

23. For mitigation and/or compensation of the seasonal wetlands lost beneath the reservoir, permittee shall release sufficient water from the reservoir into the Unnamed Stream to maintain a continuous visible surface flow at least 300 feet downstream of the dam. Permittee shall establish a control marker (wooden stake, fence post, etc.), satisfactory to the State Water Resources Control Board, 300 feet downstream of the dam. (0400400)

24. Within one year after construction of the reservoir, permittee shall establish tree species native to Glenn County in the vicinity of the reservoir. For establishment to be considered successful, each tree must be self-sustaining for at least four years. If mortality causes the number of replacement trees to decline below the target survival rate of 75 percent, new trees will be planted until the minimum 75 percent survival is obtained. Monitoring results stating the progress and success of their vegetation shall be submitted annually to the State Water Resources Control Board as part of the annual Progress Report by Permittee.

- a. Two trees shall be planted for each tree removed with a diameter at breast height of four inches or more. Tree species to be planted shall be cottonwood, willow oak, elderberry, or other trees native to Glenn County.
- b. Oak species may be rooted acorns, seedlings, or saplings. Willow and cottonwood may be cuttings or saplings. Elderberry should be seedlings. Other species should be planted at sizes that have the greatest chance of survival.
- c. Trees shall be planted in irregular spacings. Willow and cottonwood can be planted close to the mean water line of the reservoir. Elderberry should be planted above the high water line, but close enough to have damp soil into summer. Oaks should also be planted above the high water line.
- d. All tree planting sites shall be augured as needed to promote deep root growth. Slow-release fertilizers shall be added, if needed, and the holes shall be back-filled and planted.
- e. Irrigation shall be applied, where necessary, during the growing season. Irrigation shall apply at a minimum, the amount and frequency of water needed to promote adequate root growth, thus allowing the trees to survive and grow without supplemental water after four years.
- f. Herbicides, weed mats, browse repellents, and herbivore protection kits shall be used, if necessary, to control competitive weeds, animal browse, or maintain plant vigor. (0400500)

25. The archaeological sites identified as CA-GLE-465, CA-GLE-466, CA-GLE-467, and CA-GLE-468 shall not be impacted by any developments related to or resulting from the proposed water diversion, storage or use. Such developments would include all surface and subsurface disturbances related to construction of the dams, reservoir basins, pipelines, and project activities in the place of use.

The archaeological sites shall be clearly delineated by staking and flagging the areas as identified on the archaeological site maps in order to prevent inadvertent impacts during the above stated activities. The stakes marking the sites shall be at least 3-feet in height and placed at no more than 15-foot intervals.

Future developments at these sites may be allowed following the completion of an appropriate mitigation program approved by a State Water Resources Control Board (State Water Board) archaeologist. If any previously undiscovered cultural resources are found during the course of project activities authorized by this permit, all work shall be halted until a qualified archaeologist evaluates the site, notifies a State Water Board archaeologist of the find, and appropriate mitigation measures are implemented.

(0380600)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

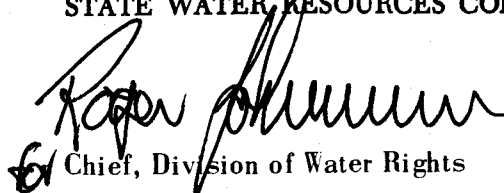
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: FEBRUARY 23 1993

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights